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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/797,379	03/10/2004	Carolyn Taylor	CS23811RL	3235

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MOTOROLA INC
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EXAMINER
KAO, WEI PO ERIC

ART UNIT	PAPER NUMBER
2616	

NOTIFICATION DATE	DELIVERY MODE
08/01/2008	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

DOCKETING.LIBERTYVILLE@MOTOROLA.COM
ADB035@Motorola.com

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED <u>14 July 2008</u> FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

   a) ☐ The period for reply expires _____months from the mailing date of the final rejection.

   b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

      Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

<u>NOTICE OF APPEAL</u>

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

<u>AMENDMENTS</u>

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will <u>not</u> be entered because

   (a)☐ They raise new issues that would require further consideration and/or search (see NOTE below);

   (b)☐ They raise the issue of new matter (see NOTE below);

   (c)☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or

   (d)☐ They present additional claims without canceling a corresponding number of finally rejected claims.

      NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).

5. ☐ Applicant's reply has overcome the following rejection(s): _____.

6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

   The status of the claim(s) is (or will be) as follows:

   Claim(s) allowed: _____.

   Claim(s) objected to: _____.

   Claim(s) rejected: ___.

   Claim(s) withdrawn from consideration: _____.

<u>AFFIDAVIT OR OTHER EVIDENCE</u>

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will <u>not</u> be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).

9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will <u>not</u> be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).

10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

<u>REQUEST FOR RECONSIDERATION/OTHER</u>

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: <u>See Continuation Sheet.</u>

12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____.

13. ☐ Other: _____.

/Ricky Ngo/
Supervisory Patent Examiner, Art Unit 2616

/Wei-po Kao/
Examiner, Art Unit 2616

Continuation of 11. Other: 1.   In response to the remark on page 7:
In response to the entire content of the remarks, in particular that "Applicant respectfully disagrees with the statement in item 5, page 4 …
Thus, it is clear that the whole IP packet/data-unit is classified based on the header information in the corresponding packet/data-unit …
Thus, the IP queue is storing the entire IP packet classified by the classifying unit, and not storing each bit of the packet," the examiner
respectfully disagrees. According to Yoshimura et al column 6 line 32-35, although header information of packets is used to determine the
QoS requirement, namely real-time class and data class, of the packets, the packets are classified according to the QoS requirements
essentially. Once the packets are classified, each classified packet is stored in a class specified queue (see figure 3 element 302, column
6 lines 36-38). Since each packet is either classified as a real-time packet or a data packet and each packet comprises plurality of header
bits and payload bits, each individual bit of the classified packet is also classified. Therefore, Yoshimura et al indeed teach "classifying
each of the header bits and the payload bits in a frame into a first predetermined class of bits or into a second predetermined class of bits."

2.   In response to the remark on page 8:
In response to the entire content of the remarks, in particular that "Additionally, in Yoshimura, the data link control part 303 includes dividing
parts 304 and retransmission control part 305 … However, in Yoshimura, the dividing process is same for all the data units in the packet,
and is not processed in accordance with a first predetermined mechanism and a second predetermined mechanism," the examiner
respectfully disagrees. Although the dividing part 304 process each classified packet equally, the following scheduling part 306 does not
process each classified packet with the same manner. According to Yoshimura et al, column 7 lines 1-6, it states: "The scheduling part 306
selects a QoS class having top priority for transmission at the moment on the basis of an allocated band, the priority of the QoS class, and
the like, and transmits a data unit being at the front of the selected class. This selection of the data unit to be transmitted is performed each
time, transmitting one data unit." There are two mechanisms, namely an allocated band and the priority of the QoS class, used each time
to select a classified data unit for transmission. In addition, according to figure 10 and column 9 lines 54-67, the data link control part 303
comprises a processing part 1001 and a processing part 1002 to process the real-time type data packet and data type data packet
respectively. Since each classified packet/data unit comprises plurality of data bit, Yoshimura et al indeed teach that "processing the first
predetermined class of bits in accordance with a first predetermined mechanism; and processing the second predetermined class of bits in
accordance with a second predetermined mechanism."

3.   In response to the remark on page 8:
In response to the entire content of the remarks, in particular that "Also, Applicant respectfully disagrees with the statement in item 5, page
5 …" the examiner respectfully disagrees. The examiner respectfully reminds the applicant to consider the teachings from Yoshimura et al
and Tong et al as whole. In the office action, the examiner provides the following combination: "implement the modules in figures 3 or 10
from Yoshimura in series with the modules in figures 10 or 11 of Tong's invention." By doing so, a packet is first classified as either a real-
time packet or a data packet and the classified packet is divided and transmitted as a classified data unit (as illustrated in the items 1 and 2
above according to Yoshimura's invention). The classified data unit (or a frame/subframe as in Tong's disclosure) is then processed with
other classified data units by Tong's invention to perform processes such as encoding, rate matching, interleaving, mapping multiplexing
and the like to form a superframe. Since each classified data unit/subframe is classified as either a real-time data unit/frame such as voice
or a data data unit/subframe and each classified data unit/subframe comprises plurality of data bits, wherein the data bits may be consist of
header bit or payload bits or both, the there must be plurality of classified header and payload bits in a superframe. Therefore, when the
Yoshimura's invention is in view of Tong's invention, "classifying each of the header bits and the payload bits in the frame (a superframe)
into a first predetermined class of bits and into a second predetermined class of bits" is taught.

4.   In response to the remark on page 9:
In response to the entire content of the remarks, in particular that "Further, Tong discloses that the encoder encodes all received voice and
data communications using turbo-coding operations … Thus, it is clear that the voice and data communications are encoding using a single
mechanism in the encoder, and not encoded using two different mechanisms," the examiner respectfully disagrees. According to Tong et
al, paragraph [0089], it states: "… However, with the structure of FIG. 11, each voice/data bit stream is provided to separate encoding, rate
matching, channel interleaving, and modulation functions. In the example of FIG. 11, encoder 1104A receives user 1 voice/data and
encodes the voice/data. The encoder 1104A uses an encoding technique appropriate for the voice/data being received from user 1. For
example, if encoder 1104A receives voice, it uses convolutional coding to encode the received bits. However, if the encoder 1104A
receives data, it uses turbo coding to encode the received bits. Likewise, the other encoders 1104B (not shown) through 1104N also use
encoding techniques tailored to the voice/data received from user B through user N." Therefore, Tong et al indeed teach that "processing
the first predetermined class of bit, in the frame (a superframe), in accordance with a first predetermined mechanism; and processing the
second predetermined class of bits, in the frame (a superframe), in accordance with a second predetermined mechanism.".